

MEMORANDUM

TO: The Kentucky Board of Education

FROM: Larry Stinson, Associate Commissioner
Office of District Support Services (ODSS)

THROUGH: Jon E. Draud, Commissioner of Education
Elaine Farris, Deputy Commissioner of Education

DATE: July 24, 2008

RE: 702 KAR 3:270, SEEK Funding Formula - Additional Revision

The Kentucky Board of Education (KBE) had already approved 702 KAR 3:270 SEEK Funding Formula at the regular meeting in December 2007. Due to language in the 2008 budget bill, the regulation was modified at the June 2008 meeting to allow Kentucky Department of Education (KDE) staff to continue to perform the SEEK calculation as proposed unless otherwise provided by the General Assembly. This related to the provision that would limit increases in real estate assessed value to 4% over the previous year when determining local effort.

When preparing to present the SEEK regulation to the Administrative Regulation Review Subcommittee, members of the Legislative Research Commission's Administrative Regulation Review Subcommittee and some of its staff raised two serious concerns about that provision, Section 2(5)(b) on page 8. The concerns were as follows:

- 1) It repeats the budget bill, which is something that would usually only be allowed when absolutely necessary to clarify a regulation, and when it poses no other statutory conflicts, and
- 2) It modifies the language of the budget by extending the real estate value calculation perpetually, when the budget only allows that calculation to last through fiscal year 2009 – 2010.

LRC staff members also expressed concerns about Section (2) (3) on page 6, which was added to address the needs of districts that continue to experience growth in ADA after the second month

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of the school year. It is the opinion of LRC staff that KRS 157.360(8) (the current statute that describes the second month growth factor) declares the full intent of the legislature regarding growth in ADA and that this additional provision approved by KBE is in conflict with the statute.

As a result of our discussions with LRC staff members, we recommend that KBE remove both provisions from the SEEK regulation. Removing these items will have no impact for the next two years since the 4% provision will be pre-empted by the budget bill and the continuing growth in ADA provision was not funded for this biennium.

The regulation showing these changes is attached.